

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TERRY DONELL GALLOWAY,

Plaintiff,

vs.

PFIEFFER, et al.,

Defendants.

1:22-cv-00737-GSA-PC

**ORDER FOR CLERK TO RANDOMLY
ASSIGN A UNITED STATES DISTRICT
JUDGE TO THIS CASE**

AND

**FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT PLAINTIFF'S
MOTION TO PROCEED IN FORMA
PAUPERIS BE DENIED
(ECF No. 2.)**

OBJECTIONS, IF ANY, DUE IN 14 DAYS

I. FINDINGS

Terry Donell Galloway ("Plaintiff") is a state prisoner proceeding *pro se* with this civil rights action pursuant to 42 U.S.C. § 1983. On June 16, 2022, Plaintiff filed the Complaint commencing this action, together with a motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. (ECF Nos. 1, 2.)

In his motion to proceed *in forma pauperis*, Plaintiff provides evidence that on May 25, 2022, the balance in his prisoner trust account was \$1,765.19, and during the past six months his average monthly balance was \$1,965.53. (ECF No. 2 at 2.)

Under these facts, the court finds that Plaintiff can afford the \$402.00 filing fee. Therefore, Plaintiff's motion to proceed *in forma pauperis* should be denied and Plaintiff be required to pay the statutory filing fee of \$402.00 for this action in full.

II. RECOMMENDATIONS AND CONCLUSION

Based on the foregoing, IT IS HEREBY RECOMMENDED that:

1. Plaintiff's motion to proceed *in forma pauperis*, filed on June 16, 2022, be DENIED; and
2. Plaintiff be required to pay the \$402.00 filing fee for this action in full within 30 days.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen (14) days** after the date of service of these findings and recommendations, Plaintiff may file written objections with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

IT IS SO ORDERED.

Dated: **June 21, 2022**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE